

Westfield State University

Policy concerning:

APPROVED: October 2005

Section Administrative

Number 0440

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REVIEWED: April 2015

REPORTING VIOLATIONS OF LAWS, RULES OR REGULATIONS (WHISTLEBLOWER POLICY)

PURPOSE

To provide assurance to employees who report violations of law, governmental rules and regulations that they shall be protected against retaliation in accordance with Massachusetts General Law Chapter 149, Section 185.

INTRODUCTION

Westfield State University is committed to complying with all laws, rules and regulations that govern its operating practices. In that spirit, the University has established internal controls and procedures designed to prevent violations of law and applicable regulations. When the University becomes aware of potential violations, it has a responsibility to investigate such allegations promptly. Similarly, the University has a responsibility to assure that employees who report what they reasonably believe are violations do not suffer retaliation. The University's policy is designed to provide guidance to employees for reporting suspected violations of law, rule or regulation promulgated pursuant to the law. This policy is not meant to abridge any processes or protections available to employees under any collective bargaining agreement, federal or state law. This policy also does not replace the grievance processes provided in the respective collective bargaining agreements to investigate complaints regarding the terms and conditions of employment, or the affirmative action grievance process established to address alleged unlawful discrimination.

DEFINITIONS

1. Employee - any individual who performs services for and under the direction of Westfield State University for wages.
2. Supervisor - any individual to whom the University has given authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.
3. University Reporting Officer ((URO) - the person designated by the Audit Committee Chair and the Vice President of Administration & Finance to serve as the official with responsibility for receiving reports of improper activities, as defined herein; the person designated to coordinate investigations of improper activities, as defined herein, on behalf of the Audit Committee Chair and the Vice President of Administration & Finance The Associate Director of Risk Management serves as the URO.

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4. Retaliatory Action - the discharge, suspension, or demotion of an employee, or any adverse employment action taken against an employee in the terms and conditions of employment.
5. Public Body - (a) the United States Congress, any state legislature, or any popularly elected local government body, or any member or employee thereof; (b) any federal, state, or local judiciary, or member or employee thereof; (c) any federal, state, or local regulatory, administrative or public agency or authority; (d) any federal, state, or local law enforcement agency, prosecutorial office, police or peace officer; or (e) any division, board, bureau, office, committee or commission of any public bodies described above.
6. Improper Activity - any activity by a university employee that is undertaken in the course of the employee's official duties, whether or not within the scope of the employee's assigned duties, which is in violation of federal, state, or local laws, rules or regulations.
7. False Allegation – Any employee or volunteer who knowingly or with reckless disregard for the truth gives false information or knowingly makes a false report of wrongful conduct or a subsequent false report of retaliation will be subject to disciplinary action, up to and including termination. Any student who makes false allegations in the non-employment setting will be subject to judicial action. Allegations that are not substantiated yet are made in good faith are not subject to corrective action.

REPORTING ALLEGATIONS OF SUSPECTED IMPROPER ACTIVITIES

1. Any employee may report a suspected improper activity. Employees are encouraged to report improper activities in writing, although they may be made orally. Any such reports should be based on facts, rather than speculation, and should contain as much specific information as possible to allow for an effective investigation. The “Fraud, Waste & Abuse Report Form” is available on the university website in PDF format and electronic format for anonymous submission directly to the URO.
2. Under normal circumstances, reports of suspected improper activities should be made to an employee's immediate supervisor or to the appropriate administrator within the employee's department or division. In instances where there exists a potential conflict of interest or to ensure confidentiality, an employee may report suspected activity to a university administrator who has responsibility for, or oversight of, the unit in which the suspected activity occurred or to the URO. When a report involves the activities of a senior officer or the URO, the report should be made directly to the President of the University. The President shall inform the Chair of the Board of Trustees of any reports involving senior officers or the URO. All reports involving alleged improper activities by the President shall be reported to the

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Audit Committee Chair and then to the Chair of the Board of Trustees. It is important that all faculty and staff, particularly those in a supervisory role, recognize that any complaint or allegation, formal or informal, may constitute a report of improper activity.

3. Administrators and supervisors who receive reports of alleged improper activity should report that information to their supervisor, appropriate administrative official or the URO as soon as practicable. In circumstances where the alleged improper activity is a minor violation of a rule or regulation it may be appropriate for the supervisor to investigate the alleged activity. When a supervisor is uncertain how the report should be investigated, the supervisor is encouraged to seek guidance and direction from supervisors, the URO and university administrators. When in doubt, supervisors receiving reports should err on the side of reporting to the URO or supervisor. Administrators and supervisors shall report to the URO any alleged improper activities which involve possible criminal acts, the misuse of university resources, or a significant threat to the health and safety of the university community.
4. Employees are required to report alleged improper activities to the appropriate university official as described in the preceding sections 1, 2 and 3 prior to disclosing the matter to a public body, unless the employee is reasonably certain the activity is known to a supervisor and is an emergency, or the employee reasonably fears physical harm will result from disclosing the activity to a university official, or the disclosure is for the purpose of providing evidence of a crime. Such notice to the supervisor or appropriate university official must be made in writing prior to notification of a public body. In the event an employee does not comply with this section 4, the employee shall not be protected by this policy from an adverse personnel action.
5. Several university departments, public safety and human resources for example, have responsibility for conducting investigations of improper activities. Based on the nature of the alleged improper activity, other departments may become involved in, or responsible for, an investigation. Reports involving the President shall be investigated by the Board of Trustees. All university employees are required to cooperate fully with any investigation into improper activities. The URO shall assure that appropriate university officials have been apprised of the allegations and the progress of the investigation. At the conclusion of the investigation the URO or the investigating officer may recommend corrective action and shall ensure that, where required, notification is provided to appropriate governmental bodies. All reports and final outcomes are submitted to the Audit Committee Chair and the Vice President for Administration & Finance and kept on file with the URO, the Associate Director of Risk Management.

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PROTECTION FROM RETALIATION/ADVERSE PERSONNEL ACTION

1. Westfield State University is committed to protecting employees from retaliation for having disclosed alleged improper activities as provided in Massachusetts General Law Chapter 149, Section 185. No retaliatory action may be taken against an employee who, consistent with this policy, reports improper activities. Further, no adverse personnel action may be taken with respect to any employee who objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety, or the environment.
2. Whenever an employee believes that retaliatory action has been taken as a result of the employee having reported improper activity, the employee shall file a complaint with the CRO. The complaint shall be filed in writing within 10 days of the date the alleged retaliation occurred. The CRO shall meet with the employee within 10 days of receipt of the complaint, conduct such investigation as the CRO deems appropriate, and whenever possible, render a decision in writing within 10 days of the meeting. The decision shall set forth a finding whether retaliation took place, and, if so, what remedy will be undertaken.
3. Nothing in this policy shall be deemed to limit the rights, privileges or remedies of any employee under any federal or state law or regulation, or under any collective bargaining agreement.

REVIEW

This policy shall be reviewed annually by the Audit Committee Chair in conjunction with the Vice President of Administration & Finance.